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The League of Nations and Outlawry of War

IN a series of diplomatic exchanges, France and the United States have been discussing a proposal for a general treaty renouncing war as an instrument of national policy. While France has expressed a willingness to conclude such a treaty, she has asked that it be applied to the renunciation of "aggressive" war, on the ground that under the Covenant of the League of Nations she is committed to joint action against an aggressor state.

This report reviews the obligations of the states members of the League, particularly as they refer to territorial guarantees, action in case of war or threat of war, provisions for peaceful settlement of international disputes, sanctions, and controversies involving non-members of the League. It contains the texts of the diplomatic notes exchanged between the French and American Governments and the complete text of the Covenant of the League of Nations.

The League of Nations Covenant has made a definite attempt to end the practice of leaving to individual states the settlement of international disputes by force. In the preamble of the Covenant, the High Contracting Parties accept "obligations not to resort to war." The framers of the Covenant recognized the principle that adequate international guarantee of a state's existence and security were essential in order to eliminate the menace of exaggerated and unjustifiable measures of self-preservation on the part of states. And, furthermore, the necessity was recognized of providing some form of obligatory peaceful settlement for international disputes as a substitute for the existing practice of leaving international differences to settlement by force, initiated at the will of individual states.

Within certain limits, the Covenant embodies these principles. Article 10 guarantees the "territorial integrity and existing political independence of all members of the League" against external aggression. Articles 12, 13, 14 and 15 provide for peaceful adjustment of international controversies by arbitration, judicial settlement and inquiry. Any dispute between the contracting parties likely to lead to a rupture must be submitted to some one of these three methods of pos-

sible adjustment. And the members of the League have agreed "in no case to resort to war until three months after the award of the arbitrators or the judicial decision, or the report by the Council." (Article 12).

The Covenant is a treaty to which the vast majority, but not all the states of the world, are parties. As such it has produced important changes in the legal relations of its members. From a strictly legal viewpoint, however, because not all states are members, the Covenant has left unchanged the general body of universal international law.[1]

TREATY OBLIGATIONS IN ADDITION TO THE COVENANT

Besides their commitments under the Covenant, many of the states members of the League are bound by treaties of alliance, neutrality agreements, treaties providing for "cordial collaboration," and a whole system of arbitration and conciliation treaties. Most of these new treaties, negotiated since the war, contain the clause "in conformity with the Covenant of the League of Nations." Furthermore, the Permanent Court of International Justice, to which all members of the League except the Argentine Republic, Honduras and Guatemala are signatory, has jurisdiction over "all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force." The so-called "optional clause" of the Court Statute, providing for compulsory jurisdiction of the Court, has been signed by 26 states including Germany.[2]

The most far-reaching and important commitments of the great European powers besides those devolving upon them as members of the League of Nations are the obligations of the Locarno Treaties. The numerous bilateral arbitration and conciliation treaties and the establishment and work of the Permanent Court of International Justice may be regarded as attempts to do away with war by providing peaceful means as a substitute for the settlement of international disputes by force. The existence of engagements which make compulsory the peaceful settlement of all disputes by judicial means, arbitration, mediation or conciliation must have far-reaching consequences.

THE POLISH RESOLUTION

Furthermore, the members of the League of Nations at the Eighth Assembly (1927) passed unanimously by a formal vote the following declaration introduced by Poland concerning wars of aggression:

> The Assembly,
>
> Recognizing the solidarity which unites the community of nations;
>
> Being inspired by a firm desire for the maintenance of general peace;
>
> Being convinced that a war of aggression can never serve as a means of settling international disputes and is, in consequence, an international crime;
>
> Considering that a solemn renunciation of all wars of aggression would tend to create an atmosphere of general confidence calculated to facilitate the progress of the work undertaken with a view to disarmament:
>
> Declares:
>
> (1) That all wars of aggression are, and shall always be, prohibited;
>
> (2) That every pacific means must be employed to settle disputes, of every description, which may arise between States.
>
> The Assembly declares that the States Members of the League are under an obligation to conform to these principles.

In the discussion of the Polish resolution, the suggestion was put forward by M. Loudon (Netherlands), in the Third Committee of the Eighth Assembly, that so-called "legal

1. "By strict definition, international law should embrace only such rules of conduct as are recognized by all members of the international community. It is, however, very difficult at times to determine how many of the nations have given their express or implied consent to a given rule. In consequence, the term 'universal international law' has been used by some authors to indicate rules binding upon all the members of the family of nations without exception (Oppenheim, *International Law*, I, Par. 1); while the term 'general international law' has been applied to rules in force between a large number of states, including necessarily the Great Powers. Further, there are rules in force between two states, or between a small group of states, to which the name 'particular international law' has been given. These, however, belong rather to the category of special contractual relations than to that of law." Fenwick, C. G. *International Law*, p. 35.

The following observation of Professor Charles Cheney Hyde is interesting in this connection: "With or without the instrumentality of the League of Nations, or the processes developed in the Covenant thereof, the Society of Nations appears to be no longer disposed to leave merely to the mercies of an aggrieved state, whether strong or weak, and to the application of penalties of its own devising, the international law-breaker whose offense is deemed to have attained the character of an international felony." Hyde, C. C. *International Law*, Vol. I. p. 11 note.

2. For a more detailed description of European treaty commitments, see F. P. A. "Information Service," Vol. II, No. 16, October 13, 1926, *Post-War European Treaties;* for arbitration record and commitments of the United States and of the other powers, see Vol. III, No. 7, June 8, 1927, *International Arbitration and Plans for an American Locarno;* for description of the work of the Permanent Court of International Justice, see Vol. II, No. 20, Dec. 8, 1926, *The United States and the World Court.*

wars" should also be forbidden, i. e., those which are admitted under Article 15, Paragraph 7 of the Covenant. M. Loudon stated that it was necessary to have a formula similar to the security clause of Locarno, which forbade any recourse to war except in three instances, namely, violation of that agreement, application of Article 16 of the Covenant, and "by order of the League of Nations." "It is true," he went on to say, "that, by instituting such an interdiction without compulsory arbitration, the duty of determining the aggressor falls upon the Council. But in the majority of cases, the State refusing arbitration would be put in a bad position, which would probably facilitate the decision of the Council."[3]

It was, however, the sense of the Third Committee in adopting the Polish Resolution that although this resolution reaffirmed a statement of principle already expressed in the League Covenant, nevertheless it had a certain moral value in again stating that wars of aggression were outlawed.

ARTICLE 10 OF THE COVENANT

The Covenant of the League of Nations is an entity, the provisions of which are interrelated; in any consideration of the terms of specific articles, therefore, this fact must constantly be borne in mind.

The attempt to give a moral guarantee of security to every member of the League, great and small, is embodied in Article 10 of the Covenant which reads as follows:

> "The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all members of the League. In case of any such aggression or in case of any threat or danger of such aggression the Council shall advise upon the means by which this obligation shall be fulfilled."

This article has provoked both strong support and strong oppositon. In the United States, the prolonged League controversy centered largely upon Article 10. In the League Assembly resolutions for its abolition have been introduced by the Canadian delegation. On the other hand, the most important attempts of the League to give additional security to its members—notably in the Draft Treaty of Mutual Guarantee and in the Geneva Protocol—have been based upon schemes to elaborate and expand Article 10.

The origin of Article 10 has been traced back to January, 1916, when President Wilson formulated a plan for the preservation of peace in the Americas based on the general principles of security represented in the Articles of Confederation of the American Colonies and the United States Constitution.[4]

Article III of the Articles of Confederation reads as follows:

> "The said states hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever."

Article IV, Section IV, of the United States Constitution states:

> "The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence."

The first condition of Wilson's plan was that "the United States and all other nations of this hemisphere mutually agree to guarantee the territorial integrity of the countries of this hemisphere." In spite of the fact that this Pan-American plan came to nothing, the idea of mutual guarantee remained in President Wilson's mind and was included in his Fourteen Points. The fourteenth point stipulated: "A general association of nations . . . . for the purpose of affording mutual guarantees of political independence and territorial integrity of great and small states alike."

The Paris Peace Conference considered various proposals along this line which were finally embodied in the League Covenant in the form of Article 10.

This doctrine of mutual guarantee is regarded by some as a challenge to the policy of security by alliance and armaments as represented by the old diplomacy. It does

3. League of Nations. *Records of the Eighth Ordinary Assembly, 1927. Minutes of the Third Committee*, p. 22.

4. Baker, R. S., *Woodrow Wilson and World Settlement*, Vol. I, p. 221.

not necessarily prevent states from making territorial changes by peaceful means,[5] but it does exclude acts of aggression as a means of modifying the territorial *status quo*. Article 19 of the Covenant, stating that the Assembly may from time to time advise the reconsideration of treaties which have become inapplicable and the consideration of international conditions whose continuation might endanger the peace of the world, provides the peaceful means by which such changes can be made.

PEACEFUL SETTLEMENT PROCEDURE—ARTICLES 11-15

According to the preamble of the Covenant, the express purpose of the League is "to promote international co-operation and to achieve international peace and security by the acceptance of obligations not to resort to war." This object was achieved in part, as far as the adjudication of purely legal disputes is concerned, by the establishment of the Permanent Court of International Justice (Article 14). While the framers of the Covenant realized that in the present stage of international relations the powers would not agree to submit "non-legal" disputes to such a court, they provided that such disputes should be submitted to the mediation or the investigation of the political branches of the League—the Council or Assembly—during which time war could not be declared. In most of the Bryan Conciliation treaties, the Commission could investigate a dispute only at the request of a party to the controversy. Under Article 11 of the Covenant, however:

> Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise the Secretary-General shall, on the request of any Member of the League, forthwith summon a meeting of the Council.
>
> It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threaten to disturb international peace or the good understanding between nations upon which peace depends.

This article does not authorize the Assembly or the Council to impose a solution upon either party to a dispute.[6] But it does legalize the intervention or the mediation of the League in any dispute which threatens the peace. It also authorizes the League to call attention to domestic practices which may result in war. In case the parties should decline to submit a dispute to the Assembly or Council as provided in Article 15, any member of the League may, under Article 11, place such dispute before either body. By virtue of Article 11, Great Britain referred the dispute between Sweden and Finland over the Aaland Islands to the Council of the League. The Allied Powers acting jointly through the Supreme Council or the Conference of Ambassadors also utilized this Article to refer several disputes arising out of the peace treaties, such as the disputes over Upper Silesia and Memel, to the Council.

While Article 11 authorizes any member of the League to invoke the good offices of the League to stop a war, Article 15 defines, in more precise terms, the duties of members who become involved in a dispute:

> If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration in accordance with Article 13, the Members of the League agree that they will submit the matter to the Council.

According to some authorities this provision would prevent one member from breaking off diplomatic relations with, or dispatching an ultimatum to, another member without first invoking the peaceful settlement procedure of Article 15, which involves a three months "cooling off period."[7] While the consent of both parties is necessary to refer a dispute to arbitration under Article 13, one party to the dispute may place it before the Council of the League, even without the consent of the other. The Council is not obliged to inquire whether or not a dispute is really "likely to lead to a rupture." It takes account of the

5. Cf. Schücking and Wehberg. *Die Satzung des Voelkerbundes*, p. 449 *et seq.* Also League of Nations, *Report of Jurists*, A. 24 (1), 1921.

6. Cf. League of Nations. *Records of the Fifth Assembly, 1924, Minutes of the First Committee*, p. 110.

7. Schücking and Wehberg, *op. cit.*, p. 507.

gravity of the dispute only in choosing the method to effect a settlement. No reservations in regard to "national honor" or "vital interests" can be pleaded as a bar to the proceedings before the Council.[8]

POWERS OF THE COUNCIL IN SETTLING DISPUTES

When a dispute is placed before the Council for investigation it may do one of four things, (1) keep it in its own hands, (2) submit it, or a component part of it, if of a legal nature, to the World Court for an advisory opinion, (3) refer it to "commissions of conciliation," (4) refer it to the Assembly. If the Council finds it impossible to effect a reconciliation between the parties, it is obliged to publish a report containing a statement of the facts and making such recommendations as "are deemed just and proper." This report must be made within six months after the submission of the dispute. Any member of the Council may also make a statement, including the parties to the dispute. But if the Council "fails to reach a report which is unanimously agreed to" (except for the parties to the dispute), "the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice." In no case, however, may a member resort to war until three months after the report. On the other hand, if the report is unanimous (except for the parties to the dispute) and is complied with by one party to the dispute, the other—while it is not obliged to accept the terms of the report—agrees not to go to war. The procedure laid down in the League Covenant is a development of the ideas formulated before the war—the idea of arbitration and compulsory investigation. But the Covenant goes further than any previous international agreement in that members of the League agree to submit *all* disputes either to arbitration or investigation, and—unlike the Bryan treaties, where each party eventually recovers its freedom of action—not to go to war in case of a unanimous report of the Council.

8. Permanent Court of International Justice, *Series B—No. 4, Feb. 7, 1923. Advisory Opinion. Nationality Decrees of Tunis-Morocco.*

"DOMESTIC QUESTIONS"

In regard to "domestic questions," Article 15, Paragraphs 8 and 9, provides:

> "If a dispute between the parties is claimed by one of them, and is found by the Council to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.
>
> "The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute, provided that such request be made within fourteen days after the submission of the dispute to the Council."

Such questions as immigration, the status of minorities, especially of aliens, tariffs, the internal production of liquor and opium, and armaments have, in the absence of treaties, been generally regarded as "domestic." The World Court recently declared:

> "The words 'solely within the domestic jurisdiction' seem rather to contemplate certain matters which, though they may very closely concern the interests of more than one State, are not, in principle, regulated by international law. As regards such matters, each state is the sole judge. The question whether a certain matter is or is not solely within the jurisdiction of a state is an essentially relative question; it depends upon the development of international relations.
>
> ". . . It may well happen that, in a matter which, like that of nationality, is not in principle regulated by international law, the right of a State to use its discretion is nevertheless restricted by obligations which it may have undertaken towards other States. In such a case, jurisdiction which, in principle, belongs solely to the State is limited by rules of international law. But Article 15, paragraph 8, then ceases to apply as regards those States which are entitled to invoke such rules, and the dispute as to the question whether a State has or has not the right to take certain measures becomes in these circumstances a dispute of an international character and falls outside the scope of the exception contained in this paragraph."[9]

In other words, a domestic question, such as the size of armaments or the status of minorities, may be converted into an international question, over which the League could take jurisdiction, by the signature of a treaty in which the parties freely undertake certain obligations in regard to these subjects. Nevertheless, as long as a subject is "domestic," i. e., as long as no inter-

9. Permanent Court of International Justice. *Series B—No. 4. op. cit., p. 23-24.*

national customs or treaties apply to it, the Council cannot proceed, in its semi-judicial capacity, to make a recommendation. On the other hand, either the Council or the Assembly may "discuss" such questions if they threaten the peace of the world.

If each state could interpret for itself what constitutes a "domestic question" this provision might be used as a pretext to withdraw from arbitration a dispute which it believed it might lose. Under the Covenant, this practice has been made impossible by empowering the Council to decide whether or not a dispute involves a domestic question. Since the determination of this question is properly a judicial task, the practice of the Council has been to request the Permanent Court of International Justice for an advisory opinion upon such subjects.

Within fourteen days after the submission of a dispute to the Council, either party may request it to be referred to the Assembly, and the Council on its own motion may so refer it. In investigating a dispute, the Assembly has the same powers as the Council, except that a report made by the Assembly, to be binding to the same extent as a unanimous Council report, must be approved by the representatives of those members of the League represented on the Council and a majority of the other members of the League, exclusive of the parties to the dispute. While the Assembly has discussed a number of disputes placed before it under Article 11, it does not appear that any party to a dispute has invoked this provision to transfer a dispute from the Council to the Assembly.

THE CONTROVERSY OVER THE SANCTIONS

The Covenant recognizes the necessity for backing up its peace machinery by economic, political and military pressure—the so-called sanctions provided in Article 16. There are two schools of thought in regard to the use of sanctions: one which believes they are too strong, including Great Britain and Canada, and another exemplified by France, which complains that they are not strong enough. The latter group has consistently maintained that as long as each state judges for itself the existence and the extent of its obligations, disarmament is impossible. In other words, this group feels that guaranteed security must precede disarmament.[10]

The anti-sanction group has attempted to whittle down the provisions of Article 16 and to amend it in such a way as to make the sanctions weaker. Committees of jurists appointed by the League have given interpretations of various points, and two sets of amendments, one voted in 1921 and one in 1924, have been submitted to the governments of states members of the League for ratification. The 1921 amendments were not ratified by a sufficient number of states nor have the 1924 amendments as yet gone into force. While they indicate the trend of League opinion, therefore, they have not, from the strictly legal point of view, modified the actual provisions of Article 16.

Under Article 16 the sanctions may be employed in the following instances:

1. If a member of the League refuses to submit a dispute to the peaceful settlement procedure provided in the Covenant and resorts to war.
2. If, after making use of this machinery, a member resorts to war before the three months "cooling off" period stipulated in Article 12 has expired.
3. If a member goes to war with a party to a dispute which has complied with a unanimous report by the Council,[11] and
4. If a non-member refuses to accept the obligations of League membership for the purposes of a dispute with a member of the League and resorts to war against the latter.

MEASURES TO BE TAKEN UNDER ARTICLE 16

Article 16 becomes operative only in case of "a resort to war" and under its terms the members of the League have undertaken

10. The interrelation of disarmament and security has been recognized in a resolution passed by the Third Assembly of the League in 1922—the famous Resolution XIV, which stated that (1) no scheme of disarmament could be successful unless it was general; (2) "In the present state of the world many Governments would be unable to accept the responsibility for a serious reduction of armaments unless they received in exchange a satisfactory guarantee of the safety of their country;" (3) "Such a guarantee can be found in a defensive agreement, which should be open to all countries, binding them to provide immediate and effective assistance in accordance with a prearranged plan in the event of one of them being attacked, provided that the obligation to render assistance to a country attacked shall be limited in principle to those countries situated in the same part of the globe. . . "

11. The votes of the parties to the dispute are not counted in such a case.

"immediately to subject [the Covenant-breaking state] to the severance of all trade or financial relations, the prohibition of all intercourse between the nationals of the Covenant-breaking state and the nationals of any other state, whether a member of the League or not." Thus a definite obligation is apparently laid on each member of the League to impose a boycott against a state illegally going to war.

If the economic pressure contemplated under this section of Article 16 does not suffice to stop hostilities, according to the provisions of the Article, "it shall be the duty of the Council . . . . *to recommend*[12] to the several governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League."

The third type of sanction which may be applied against a Covenant-breaking state is political. Such a state "may be declared to be no longer a member of the League."[13]

To summarize, it would appear from the terms of Article 16 that all the members of the League are bound to take economic action against a Covenant-breaking state. The Article, however, leaves open to interpretation the question of how and by whom the fact that the Covenant has been violated shall be determined, for it states that *should* any member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be *deemed* to have committed an act of war against all other members of the League. Moreover, the article leaves ambiguous the question of whether the Council or each individual state shall determine whether a state has violated its obligations. It is the duty of the Council to recommend what military action shall be taken. Political action, excluding the offender from the League, is also envisaged.

CONFLICTING INTERPRETATIONS OF THE SANCTIONS

These ambiguities have not been cleared up. The problems of the interpretation and effective application of Article 16 have been the subject of much consideration by the League. Amendments weakening the force of the Article, as has been previously noted, have been introduced but have as yet failed of ratification. Rules for guidance in interpreting the Article, which seem to weaken its provisions, have been passed, and although it appears from a strictly legal point of view, that they are without actual legal force, nevertheless they must be taken into account as showing the trend of League opinion.

On the other hand, the League has attempted, notably in connection with its work on disarmament,[14] to stengthen the sanctions, make them more automatic and to abolish the loopholes by which war can, under the Covenant, still be resorted to as a means of settling international disputes. These attempts have also been unsuccessful and Article 16 has to date remained unamended. France has been largely responsible for blocking the acceptance of the amendments which would make the Article less potent. And the attempts to strengthen the sanctions have been blocked mostly by Britain and the Dominions.

Briefly, Article 16 seems to mean at present that while it is the duty of the Council to recommend what measures shall be taken to enforce the Covenant, each state appears to be free at present to determine whether or not a violation of the Covenant has taken place. If an individual state decides this question in the affirmative, it is then free to decide for itself what action it will take.

The Draft Collective Note to Germany regarding Article 16, which was initialed at Locarno on October 16, 1925 by the representatives of Belgium, Czechoslovakia, France, Great Britain, Italy and Poland, summarized briefly the views of the principal European powers as to the meaning of the Article. It states:

> ". . . We are not in a position to speak in the name of the League but in view of the discussions which have already taken place in the Assembly and in the commissions of the League of Nations, and after the explanations which have been exchanged between ourselves, we do not hesitate to inform you of the interpretation which, insofar as we are concerned, we place upon Article 16.

12. Italics ours.

13. The Council has the power to vote such a measure by unanimous action, not including the representative of the outlaw state.

14. The Draft Treaty of Mutual Assistance (1923) and the Geneva Protocol (1924).

"In accordance with the interpretation the obligations resulting from the said article on the members of the League must be understood to mean that each State member of the League is bound to cooperate loyally and effectively in support of the Covenant and in resistance to an act of aggression to an extent which is compatible with its military situation and takes its geographical position into account."[15]

PROPOSED AMENDMENTS TO ARTICLE 16

The following brief historical summary of the more important attempts to define and amend Article 16 gives some indication of League opinion in regard to the sanctions.

In February, 1921, the Council established an International Blockade Commission to study the means by which Article 16 could be fulfilled. A detailed report was made by this Commission under the following heads:

1. Under what conditions should sanctions be applied?
2. Whose duty is it to decide that the necessity for sanctions has arisen?
3. At what moment and by whom should these measures be applied?
4. How should they be applied?

A Committee on Amendments to the Covenant also submitted a report and the result of the reference to the Assembly of these two reports was that after exhaustive discussion, the Assembly adopted two series of resolutions. The first series formulated four amendments to Article 16. The first amendment made residence and not nationality the test for the interruption of relations with the Covenant-breaking state. This failed to secure the necessary ratifications chiefly because of French opposition, and in 1924 was replaced by a different amendment.[16]

The second and third amendments inserted two new paragraphs which expressly conferred certain functions on the Council in regard to determining whether or not a breach of the Covenant had taken place and in regard to recommending a date for the application of the economic sanctions. These amendments did not obtain the necessary number of ratifications to bring them into force. The fourth amendment dealt with the postponement of the application of economic sanctions by particular members of the League in special cases. This amendment has also not yet come into force.[17]

INTERPRETIVE RESOLUTIONS WEAKENING SANCTIONS

The second series of resolutions adopted in 1921 by the Second Assembly are significant in a consideration of Article 16. Article 1 laid down rules which were recommended by the Assembly for the guidance of the League in connection with the application of Article 16 pending the coming into force of the amendments. The amendments have not yet come into force; these interpretive rules of guidance are therefore important.

The resolution provides further:

3. "The unilateral action of the defaulting State cannot create a state of war: it merely entitles the other Members of the League to resort to acts of war or to declare themselves in a state of war with the Covenant-breaking State; but it is in accordance with the spirit of the Covenant that the League of Nations should attempt, at least at the outset, to avoid war, and to restore peace by economic pressure.

4. "It is the duty of each Member of the League to decide for itself whether a breach of the Covenant has been committed. The fulfillment of their duties under Article 16 is required from Members of the League by the express terms of the Covenant, and they cannot neglect them without breach of their Treaty obligations.

5. "The Council is to be summoned with all possible haste in case of a breach of the Covenant.

8. "The Council shall recommend the date on which the application of economic pressure under Article 16, is to be begun. . .

10. "It is not possible to decide beforehand, and in detail, the various measures of an economic, commercial and financial nature to be taken in each case where economic pressure is to be applied.

"When the case arises, the Council shall recommend to the Members of the League a plan for joint action.

15. *Final Protocol of The Locarno Conference, 1925 with Annexes.* London, H. M. Stationery Office, 1925. Cmd. 2525. p. 56-57.

16. Cf. Appendix, p. 415 footnote.

17. Cf. League of Nations, *Reports and Resolutions on the Subject of Article 16 of the Covenant.* A. 14, 1927. V. p. 8, *et seq.*

13. "For the purposes of the severance of relations between persons belonging to the Covenant-breaking State and persons belonging to other States Members of the League, the test shall be residence and not nationality.

17. "Efforts should be made to arrive at arrangements which would ensure the cooperation . States non-Members of the League in the measures to be taken."

These resolutions were intended to make the system of the economic blockade more flexible in its application so far as may be consistent with the purpose of the first paragraph of Article 16 of the Covenant, namely, to institute a complete economic and financial boycott of an aggressor.[18] However, the resolutions seem to make a boycott optional instead of automatic as appears to have been intended by the framers of Article 16.[19]

APPLICATION OF SANCTIONS NOT YET TESTED

The sanctions of Article 16 have never been applied in the eight years of the League's existence. It is rather generally felt, except perhaps in France and in some of the new European states, that the value of the sanctions lies in the threat embodied in Article 16 of joint League action against any state which disturbs the peace of the world. In other words, their value lies in prevention of war-like action rather than in punishment. But the application of sanctions, economic, military or political, particularly against a first rate power, would be extremely difficult to apply and must in the final analysis depend on individual rather than group action. It was recognition of this fact which led the French, at the Paris Peace Conference, to propose the establishment of an international police force, under an international General Staff which should inspect different national armies and make suggestions as to modifications in recruiting systems, which the governments should accept. Also, by the same proposal, the Council might entrust a mandate to enforce decisions of the League to one or more powers.

18. Miller, D. H. *The Geneva Protocol.* p. 75.
19. Cf. Schücking and Wehberg, *op. cit.*, p. 621.

This plan was rejected because it was believed that it would oblige every country to adopt conscription at the behest of the international staff, substituting, according to President Wilson, "international for national militarism." Difficulties would also arise over the control and location of an international military force. While the French proposal was thus open to many objections, its defeat increased sentiment in France in favor of alliances and armaments as the only certain means of security. This feeling of lack of security has been the strongest single force motivating French policy since the war.

Many states, however, took the attitude that the military sanctions proposed by France could never permanently maintain peace, simply because the sanctions policy ignored the question whether France or any other state invoking protection in a particular dispute was right or wrong. According to this opinion, the best guarantee against attack was the universal acceptance of the obligation to submit all disputes to some form of arbitration. If nations actually agreed to this principle and to abide by arbitral decisions, war would be automatically outlawed. On the other hand, insistence on the *status quo* and on the guarantee of a state against attack, regardless of its acts which might have provoked the attack, would not insure peace. According to this point of view, the principles of disarmament and security depended for their validity and their fulfilment upon compulsory arbitration.

In any consideration of the sanctions of the League Covenant, the fact must not be lost sight of that the sanctions are intended as a last resort after all the means for peaceful settlement of a dispute have been tried and failed. These comprise not only the provisions of the Covenant, including the use of the Permanent Court of International Justice, but also settlement by other means.[20]

20. In the Corfu affair between Italy and Greece, (August, 1923), the Conference of Ambassadors settled the matter, although to a certain extent adopting suggestions made by the League Council. The pressure of public opinion concentrated in the Council and particularly in the Assembly, both of which were in session at the time, had great weight in effecting the final settlement.

EFFORTS TO STRENGTHEN ARTICLE 16

There have been various attempts made by the League in connection with its activities in the field of disarmament to strengthen the sanctions provisions of the Covenant. From 1922 on, it was recognized that disarmament was inseparable from security.[21] In 1923, the Fourth Assembly considered the Cecil-Réquin Draft Treaty of Mutual Assistance which was designed to strengthen the provisions of the Covenant in regard to guarantees and sanctions as provided in Articles 10 and 16. The first article of the Draft Treaty solemnly declared that "aggressive war is an international crime." The "aggressor" was, however, not defined, and instead the Draft Treaty left to the Council the difficult task of deciding, within four days after notification of hostilities, which state was the victim of aggression. After such a decision, according to the terms of the Draft Treaty, an attacked state would be aided by the other parties in the form which the Council should consider most efficacious. While Article 16 of the Covenant provides that the Council can "advise," the Draft Treaty would have given it the power to "determine the forces which each state furnishing assistance shall place at its disposal."[22] Such assistance could not, however, be asked of states located in a continent other than that in which operations should take place. The treaty further authorized the negotiation of "complementary defensive agreements" under which two or more states could determine in advance what assistance they would give each other in case of aggression.

The Cecil-Réquin Draft Treaty was not accepted by the states members of the League, and in 1924 the Fifth Assembly drew up the Geneva Protocol[23] which recognized the principle that security must rest on the principle of compulsory arbitration. While, under the Covenant, parties to a dispute are free to go to war in case the Council cannot unanimously agree and in certain other contingencies, under the Protocol they would be obliged to submit to and abide by some form of pacific settlement for practically every kind of international dispute. The preamble to the Protocol declared that a war of aggression is an international crime and the instrument itself provided in detail that that state which refuses to accept pacific settlement of a dispute on the decision resulting therefrom is the aggressor. Sanctions under the Protocol were to be applied as soon as the fact of aggression is established, the Council to call on the states for their application. The Protocol endeavored to end the long controversy over the binding force of the sanctions in Article 16 by providing that "these obligations shall be interpreted as obliging each of the signatory states to cooperate loyally and effectively in support of the Covenant of the League of Nations, and in resistance to any act of aggression in the degree which its geographical position and its particular situation as regards armaments allow." Furthermore, the signatory States give a "joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit. . . "

The effect of these articles would have been to set aside the interpretations of Article 16 made by the Second Assembly in 1921 under which each State could decide for itself whether or not the obligation to enforce sanctions had come into existence. Under the Protocol, each State remained the judge of the manner in which it should carry out its obligations, but not of the existence of these obligations.

The Protocol was not ratified by a sufficient number of the signatories and has, therefore, never gone into force. It has, however, influenced European thinking on outlawing war, on guarantees against aggression and on the application of sanctions.

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21. P. 403, footnote 10.

22. Article 5. Treaty of Mutual Assistance. Cf. League of Nations. *Records of the Fourth Assembly, 1923, Minutes of the Third Committee*, p. 197-212.

23. The text of the Geneva Protocol with a commentary on it is published in F. P. A. pamphlet No. 30, *Protocol for the Pacific Settlement of International Disputes.*

DISPUTES INVOLVING NON-MEMBERS

Since 1925, on the intiative of France, Finland and Poland for the most part, the Assembly and Council with the aid of various technical sub-committees have been considering proposals to add to the effectiveness of the Covenant in the following fields:

1. Regulations which would enable the Council to take decisions to keep the peace of the world (under Article XI) as expeditiously as possible.

2. The establishment of a common scheme of financial assistance in support of a state which is the victim of aggression.[24]

The Eighth Assembly (1927), taking cognizance of the need for action along these lines, passed resolutions designed to stimulate further study and regulation of these questions.[25]

While the League aims to embrace every nation in the world, a number of powerful states still remain aloof from its membership who may come in conflict with members of the League. In order to extend the League arbitral procedure to non-members, Article 17 of the Covenant provides that when a dispute breaks out between a member and a non-member, the latter shall be invited to accept the obligations of membership for the purposes of the dispute. If the non-member refuses to accept such obligations and if it resorts to war against a member, the provisions of Article 16 in regard to sanctions become applicable. Thus, Finland and Lithuania were invited, while non-members of the League, to submit their dispute to the Council. On the other hand, a non-member is not entitled to invoke this Article or Article 11 on its own authority.

In 1922, the Esthonian Government invited the Soviet Government of Russia to submit a dispute with Finland over Eastern Carelia[26] to the Council on the basis of Article 17. Although the Soviet Government declined to accept this request, the Council, in April, 1923, asked the World Court for an advisory opinion on whether or not the provisions of the Dorpat treaty between Finland and Russia constituted obligations of an international character; but the Court declined to render an opinion.[27]

This "opinion" was noted by the Council which, however, declared that it could not exclude the possibility of further action by the Council in the case of a non-member state, if circumstances make such action "necessary to enable the Council to fulfill its functions under the Covenant in the interests of peace."[28]

A memorandum on the "legal position arising from the enforcement in time of peace of the measures of economic pressure indicated in Article 16 of the Covenant, particularly by a maritime blockade" which was prepared by the League Secretariat in May, 1927, states:[29]

> "The Council determines the conditions under which the state is invited to accept the obligations of membership of the League and may modify the manner in which Articles 12 to 16 are applicable, but it is assumed that it would do nothing to weaken the effect of these articles. On the contrary, it might be expected to seek to place every party to a dispute under the full obligations and the full protection of the Covenant. In the case of a dispute between two non-member states it is theoretically possible that one might accept the obligations of membership and the other refuse; in this event it is unlikely that the conditions laid down by the Council would entitle the latter State to the protection given by the provisions of Article 16."

24. Cf. League of Nations. *Reports and Resolutions on the subject of Article 16 of the Covenant.* A. 14, 1927. V. p. 72, *et seq.*

25. League of Nations. *Monthly Summary.* October 15, 1927. p. 308 *et seq.*

26. Cf. the memorandum of the Secretariat, *Official Journal,* March, 1923. p. 343.

27. Permanent Court of International Justice. *Series B—No. 5. July 23, 1923. Status of Eastern Carelia.*

28. League of Nations. Council. *Minutes of Twenty-sixth Session,* 1923. p. 1336.

29. League of Nations: *Reports and Resolutions on the subject of Article 16 of the Covenant.* A. 14. 1927. V. p. 84 note.

APPENDIX I
Texts of the Notes Exchanged Between France and the United States for an Outlawry of War Treaty

Note of Secretary Kellogg to the French Government, December 28, 1927

Excellency:

I have the honor to refer to the form of treaty entitled, "Draft of Pact of Perpetual Friendship between France and the United States," which His Excellency, the Minister of Foreign Affairs, was good enough to transmit to me informally last June through the instrumentality of the American Ambassador at Paris.

This draft treaty proposes that the two Powers should solemnly declare in the name of their respective Peoples that they condemn recourse to war, renounce it as an instrument of their national policy towards each other, and agree that a settlement of disputes arising between them, of whatsoever nature or origin they may be, shall never be sought by either party except through pacific means. I have given the most careful consideration to this proposal and take this occasion warmly to reciprocate on behalf of the American people the lofty sentiments of friendship which inspired the French people, through His Excellency M. Briand to suggest the proposed treaty.

The Government of the United States welcomes every opportunity for joining with the other Governments of the world in condemning war and pledging anew its faith in arbitration. It is firmly of the opinion that every international endorsement of arbitration, and every treaty repudiating the idea of a resort to arms for the settlement of justiciable disputes, materially advances the cause of world peace. My views on this subject find a concrete expression in the form of the arbitration treaty which I have proposed in my note to you of December 28, 1927, to take the place of the arbitration convention of 1908. The proposed treaty extends the scope of that convention and records the unmistakable determination of the two Governments to prevent any breach in the friendly relations which have subsisted between them for so long a period.

In view of the traditional friendship between France and the United States—a friendship which happily is not dependent upon the existence of any formal engagement—and in view of the common desire of the two Nations never to resort to arms in the settlement of such controversies as may possibly arise between them, which is recorded in the draft arbitration treaty just referred to, it has occurred to me that the two Governments, instead of contenting themselves with a bilateral declaration of the nature suggested by M. Briand, might make a more signal contribution to world peace by joining in an effort to obtain the adherence of all of the principal Powers of the world to a declaration renouncing war as an instrument of national policy. Such a declaration, if executed by the principal world Powers, could not but be an impressive example to all the other Nations of the world, and might conceivably lead such Nations to subscribe in their turn to the same instrument, thus perfecting among all the Powers of the world an arrangement heretofore suggested only as between France and the United States.

The Government of the United States is prepared, therefore, to concert with the Government of France with a view to the conclusion of a treaty among the principal Powers of the world, open to signature by all Nations, condemning war and renouncing it as an instrument of national policy in favor of the pacific settlement of international disputes. If the Government of France is willing to join with the Government of the United States in this endeavor, and to enter with the United States and the other principal Powers of the world into an appropriate multilateral treaty, I shall be happy to engage at once in conversations looking to the preparation of a draft treaty following the lines suggested by M. Briand for submission by France and the United States jointly to the other nations of the world.

FRANK B. KELLOGG

Note From the French Ambassador to the Secretary of State, Dated January 5, 1928

Mr. Secretary of State:

By a letter of December 28th last your Excellency was kind enough to make known the sentiments of the Government of the United States concerning the suggestion of a treaty proposed by the Government of the Republic in the month of June, 1927, with a view to the condemnation of war and the renunciation thereof as an instrument of national policy between France and the United States.

According to Your Excellency, the two governments, instead of limiting themselves to a bilateral treaty, would contribute more fully to the peace of the world by uniting their efforts to obtain the adhesion of all the principal powers of the world to a declaration renouncing war as an instrument of their national policy.

Such a declaration, if it were subscribed to by the principal powers, could not fail to be an impressive example to all the nations of the world and might very well lead them to subscribe in their turn to the same pact, thus bringing into effect as among all the nations of the world an arrangement which at first was only suggested as between France and the United States.

The Government of the United States, therefore, would be disposed to join the Government of the Republic with a view to concluding a treaty be-

tween the principal powers of the world which, open to the signature of all nations, would condemn war, would contain a declaration to renounce it as an instrument of national policy and would substitute therefor the pacific settlement of disputes between nations.

Your Excellency added that if the Government of the Republic agrees thus to join the Government of the United States and the other principal powers of the world in an appropriate multilateral treaty, Your Excellency would be happy to undertake immediately conversations leading to the elaboration of a draft inspired by the suggestions of M. Briand and destined to be proposed jointly by France and the United States to the other nations of the world.

The Government of the Republic appreciated sincerely the favorable reception given by the Government of the United States to the proposal of M. Briand. It believes that the procedure suggested by Your Excellency and carried out in a manner agreeable to public opinion and to the popular sentiment of the different nations seems to be of such nature as to satisfy the views of the French Government. It would be advantageous immediately to sanction the general character of this procedure by affixing the signatures of France and the United States.

I am authorized to inform you that the Government of the Republic is disposed to join with the Government of the United States in proposing for agreement by all nations a treaty to be signed at the present time by France and the United States and under the terms of which the high contracting parties shall renounce all war of aggression and shall declare that for the settlement of differences of whatever nature which may arise between them they will employ all pacific means. The high contracting parties will engage to bring this treaty to the attention of all States and invite them to adhere.

The Government of the Republic is convinced that the principles thus proclaimed cannot but be received with gratitude by the entire world, and it does not doubt that the efforts of the two governments to insure universal adoption will be crowned with full success.

Accept, Mr. Secretary, the assurances of my high consideration, etc.

PAUL CLAUDEL

Note of Secretary Kellogg to the French Ambassador, January 11, 1928

Excellency:

In the reply which your Government was good enough to make to my note of December 28, 1927, His Excellency the Minister of Foreign Affairs summarized briefly the proposal presented by the Government of the United States, and stated that it appeared to be of such a nature as to satisfy the views of the French Government. In these circumstances he added that the Government of the Republic was disposed to join with the Government of the United States in proposing for acceptance by all nations a treaty to be signed at the present time by France and the United States, under the terms of which the High Contracting Parties should renounce all wars of aggression and should declare that they would employ all peaceful means for the settlement of any differences that might arise between them.

The Government of the United States is deeply gratified that the Government of France has seen its way clear to accept in principle its proposal that, instead of the bilateral pact originally suggested by M. Briand, there be negotiated among the principal powers of the world an equivalent multilateral treaty open to signature by all nations. There can be no doubt that such a multilateral treaty would be a far more effective instrument for the promotion of pacific relations than a mere agreement between France and the United States alone, and if the present efforts of the two Governments achieve ultimate success, they will have made a memorable contribution to the cause of world peace.

While the Government of France and the Government of the United States are now closely in accord so far as the multilateral feature of the proposed treaty is concerned, the language of M. Briand's note of January 5, 1928, is in two respects open to an interpretation not in harmony with the idea which the Government of the United States had in mind when it submitted to you the proposition outlined in my note of December 28, 1927. In the first place, it appears to be the thought of your Government that the proposed multilateral treaty be signed in the first instance by France and the United States alone and then submitted to the other Powers for their acceptance. In the opinion of the Government of the United States this procedure is open to the objection that a treaty, even though acceptable to France and the United States, might for some reason be unacceptable to one of the other great Powers. In such event the treaty could not come into force and the present efforts of France and the United States would be rendered abortive. This unhappy result would not necessarily follow a disagreement as to terminology arising prior to the definitive approval by any Government of a proposed form of treaty, since it is by no means unreasonable to suppose that the views of the Governments concerned could be accommodated through informal preliminary discussions and a text devised which would be acceptable to them all. Both France and the United States are too deeply interested in the success of th ir endeavors for the advancement of peace to be willing to jeopardize the ultimate accomplishment of their purpose by incurring unnecessary risk of disagreement with the other Powers concerned, and I have no doubt that your Government will be entirely agreeable to joining with the Government of the United States

and the Governments of the other Powers concerned for the purpose of reaching a preliminary agreement as to the language to be used in the proposed treaty, thus obviating all danger of confronting the other Powers with a definitive treaty unacceptable to them. As indicated below, the Government of the United States would be pleased if the Government of France would agree that the draft treaty submitted by M. Briand last June should be made the basis of such preliminary discussions.

In the second place, and this point is closely related to what goes before, M. Briand's reply of January 5, 1928, in expressing the willingness of the Government of France to join with the Government of the United States in proposing a multilateral treaty for the renunciation of war, apparently contemplates that the scope of such treaty should be limited to wars of aggression. The form of treaty which your Government submitted to me last June which was the subject of my note of December 28, 1927, contained no such qualification or limitation. On the contrary it provided unequivocally for the renunciation by the High Contracting Parties of all war as an instrument of national policy in the following terms:

Article 1

The High Contracting Powers solemnly declare, in the name of the French people and the people of the United States of America, that they condemn recourse to war and renounce it respectively as an instrument of their national policy towards each other.

Article 2

The settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise between France and the United States of America shall never be sought by either side except by pacific means.

I am not informed of the reasons which have led your Government to suggest this modification of its original proposal, but I earnestly hope that it is of no particular significance and that it is not to be taken as an indication that the Government of France will find itself unable to join with the Government of the United States in proposing, as suggested above, that the original formula submitted by M. Briand which envisaged the unqualified renunciation of all war as an instrument of national policy be made the subject of preliminary discussions with the other great Powers for the purpose of reaching a tentative agreement as to the language to be used in the proposed treaty.

If your Government is agreeable to the plan outlined above and is willing that further discussions of the terms of the proposed multilateral treaty be based upon the original proposal submitted to me by M. Briand last June, I have the honor to suggest that the Government of France join with the Government of the United States in a communication to the British, German, Italian and Japanese Governments transmitting the text of M. Briand's original proposal and copies of the subsequent correspondence between the Governments of France and the United States for their consideration and comment, it being understood, of course, that these preliminary discussions would in no way commit any of the participating Governments pending the conclusion of a definitive treaty.

Accept, Excellency, the renewed assurances of my highest consideration.

FRANK B. KELLOGG

Note from the French Ambassador to the Secretary of State, January 21, 1928

Mr. Secretary of State:

Your Excellency was pleased to inform me in your note of the 11th instant, of the consideration suggested to you by my letter of January 5 in answer to your communication of December 28, 1927. My Government has asked me to express to you its satisfaction at the harmonizing, thanks to your Excellency, of the views of the two Governments concerning the best method of accomplishing a project upon the essential principles of which they apparently are in agreement.

The original French proposal of June, 1927, contemplating an act confined to France and the United States, appeared to the French Government to be both desirable and feasible by reason of the historical relations between the two Republics.

The American Government was only willing, however, to embody the declaration proposed by the French Government in the preamble of the Franco-American Arbitration Convention now in process of renewal, and considered on the other hand, for reasons of its own which the French Government has not failed to take into account, that there it would be opportune to broaden this manifestation against war and to make of it the subject of a separate act in which the other Powers would be invited to participate.

The Government of the Republic was not opposed to this expansion of its original plan, but it could not but realize, and it felt bound to point out that the new negotiation as proposed would be more complex and likely to meet with various difficulties.

The question as to whether there would be any advantage in having such an instrument, of a multipartite nature, signed in the first place by France and the United States, or else first elaborated by certain of the principal Powers of the World and then presented to all for their signature, is essentially one of procedure.

The Government of the Republic refrained from offering suggestions upon this point solely because of its desire more speedily and more surely to achieve the result which it seeks in common with the

United States. This is tantamount to saying that it is ready to concur in any method which may appear to be the most practicable.

There is, however, a situation of fact to which my Government has requested me to draw your particular attention.

The American Government cannot be unaware of the fact that the great majority of the Powers of the world, and among them most of the principal Powers, are making the organization and strengthening of peace the object of common efforts carried on within the framework of the League of Nations. They are already bound to one another by a Covenant placing them under reciprocal obligations, as well as by agreements such as those signed at Locarno in October, 1925, or by international conventions relative to guarantees of neutrality, all of which engagements impose upon them duties which they cannot contravene.

In particular, your Excellency knows that all States members of the League of Nations represented at Geneva in the month of September last, adopted, in a joint resolution tending to the condemnation of war, certain principles based on the respect for the reciprocal rights and duties of each. In that resolution the Powers were led to specify that the action to be condemned as an international crime is aggressive war and that all peaceful means must be employed for the settlement of differences, of any nature whatsoever, which might arise between the several States.

This is a condition of affairs which the United States, while a stranger thereto, cannot decline to take into consideration, just as must any other State called upon to take part in the negotiation.

Furthermore, the United States would not in any way be bound thereby to the provisions of the covenant of the League of Nations. The French proposal of June last looking to the conclusion of a bilateral compact, had been drawn up in the light of the century old relations between France and the United States; the French Government still stands ready to negotiate with the American Government on the same conditions and on the same basis. It has never altered its attitude in that respect. But when confronted by the initiative of the United States in proposing a multipartite covenant, it had to take into consideration the relations existing among the various Powers which would be called upon to participate therein. This it has done, with the object of assuring the success of the treaty contemplated by the United States. Its suggestions of January 5 as to the terms of the multipartite treaty are inspired by the formula which has already gained the unanimous adherence of all of the States members of the League of Nations, and which for that very reason might be accepted by them with regard to the United States, just as it has already been accepted among themselves.

This is the explanation of our proposal of January 5.

The Government of the Republic has always, under all circumstances, very clearly and without mental reservation declared its readiness to join in any declaration tending to denounce war as a crime and to set up international sanctions susceptible of preventing or repressing it. There has been no change in its sentiments in that respect; its position remains the same. Your Excellency may therefore be assured of its sincere desire to respond to the idea of the American Government and to second its efforts to the full extent compatible with the situation of fact created by its international obligations. It is this preoccupation which inspired the formula proposed on January 5, a formula which does indeed seem to be the most apt at this time to assure the accomplishment of the American project. The Government of the Republic accordingly cannot but hope that the American Government will share this view. Subject to these observations, the Government of the Republic would, moreover, very gladly welcome any suggestions offered by the American Government which would make it possible to reconcile an absolute condemnation of war with the engagements and obligations assumed by the several nations and the legitimate concern for their respective security.

Pray accept, Mr. Secretary of State, the assurances, etc.

PAUL CLAUDEL

COVENANT OF THE LEAGUE OF NATIONS

With amendments in force January 1, 1928

THE HIGH CONTRACTING PARTIES

In order to promote international co-operation and to achieve international peace and security

by the acceptance of obligations not to resort to war,

by the prescription of open, just and honorable relations between nations,

by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and

by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another,

Agree to this Covenant of the League of Nations.

ARTICLE 1

Membership and Withdrawal

1. [1]The original Members of the League of Nations shall be those of the Signatories which are named in the Annex to this Covenant, and also such of those other States named in the Annex as shall

1. Paragraphs numbered in accordance with Assembly resolution of September 21, 1926.

accede without reservation to this Covenant. Such accessions shall be effected by a declaration deposited with the Secretariat within two months of the coming into force of the Covenant. Notice thereof shall be sent to all other Members of the League.

2. Any fully self-governing State, Dominion or Colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guaranties of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments.

3. Any Member of the League may, after two years' notice of its intention so to do, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal.

ARTICLE 2

Executive Organs

The action of the League under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat.

ARTICLE 3

Assembly

1. The Assembly shall consist of representatives of the Members of the League.

2. The Assembly shall meet at stated intervals and from time to time, as occasion may require, at the Seat of the League, or at such other place as may be decided upon.

3. The Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

4. At meetings of the Assembly each Member of the League shall have one vote and may have not more than three Representatives.

ARTICLE 4

Council

1. The Council shall consist of representatives of the Principal Allied and Associated Powers [United States of America, the British Empire, France, Italy, and Japan], together with Representatives of four other Members of the League. These four Members of the League shall be selected by the Assembly from time to time in its discretion. Until the appointment of the Representatives of the four Members of the League first selected by the Assembly, Representatives of Belgium, Brazil, Greece and Spain shall be Members of the Council.

2. With the approval of the majority of the Assembly, the Council may name additional Members of the League, whose Representatives shall always be Members of the Council; the Council with like approval may increase the number of Members of the League to be selected by the Assembly for representation on the Council.

2. *bis.*[1] *The Assembly shall fix by a two-thirds majority the rules dealing with the election of the non-permanent Members of the Council, and particularly such regulations as relate to their term of office and the conditions of re-eligibility.*

3. The Council shall meet from time to time as occasion may require, and at least once a year, at the Seat of the League, or at such other place as may be decided upon.

4. The Council may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

5. Any Member of the League not represented on the Council shall be invited to send a Representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League.

6. At meetings of the Council, each Member of the League represented on the Council shall have one vote, and may have not more than one Representative.

ARTICLE 5

Voting and Procedure

1. Except where otherwise expressly provided in this Covenant, or by the terms of the present Treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the Members of the League represented at the meeting.

2. All matters of procedure at meetings of the Assembly or of the Council, including the appointment of Committees to investigate particular matters, shall be regulated by the Assembly or by the Council and may be decided by a majority of the members of the League represented at the meeting.

3. The first meeting of the Assembly and the first meeting of the Council shall be summoned by the President of the United States of America.

ARTICLE 6

Secretariat and Expenses

1. The permanent Secretariat shall be established at the Seat of the League. The Secretariat shall comprise a Secretary-General and such secretaries and staff as may be required.

2. The first Secretary-General shall be the person named in the Annex; thereafter the Secretary-General shall be appointed by the Council with the approval of the majority of the Assembly.

3. The secretaries and the staff of the Secretariat shall be appointed by the Secretary-General with the approval of the Council.

4. The Secretary-General shall act in that capacity at all meetings of the Assembly and of the Council.

5.[2] *The expenses of the League shall be borne by the Members of the League in the proportion decided by the Assembly.*

ARTICLE 7

Seat, Qualifications of Officials, Immunities

1. The Seat of the League is established at Geneva.

1. This paragraph came into force on July 29, 1926, in accordance with Art. 26. The regulations were adopted by the Assembly on September 15.

2. This paragraph came into force as an amendment on August 13, 1924, in accordance with Art. 26.

2. The Council may at any time decide that the Seat of the League shall be established elsewhere.

3. All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.

4. Representatives of the Members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities.

5. The buildings and other property occupied by the League or its officials or by Representatives attending its meetings shall be inviolable.

ARTICLE 8

Reduction of Armaments

1. The Members of the League recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

2. The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.

3. Such plans shall be subject to reconsideration and revision at least every 10 years.

4. After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

5. The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munititions and implements of war necessary for their safety.

6. The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programs, and the condition of such of their industries as are adaptable to warlike purposes.

ARTICLE 9

Permanent Military, Naval and Air Commission

A permanent Commission shall be constituted to advise the Council on the execution of the provisions of Articles 1 and 8 and on military, naval and air questions generally.

ARTICLE 10

Guaranties Against Aggression

The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

ARTICLE 11

Action in Case of War or Threat of War

1. Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary-General shall, on the request of any Member of the League, forthwith summon a meeting of the Council.

2. It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

ARTICLE 12[1]

Disputes to Be Submitted for Settlement

1. The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture they will submit the matter either to arbitration or *judicial settlement* or to inquiry by the Council and they agree in no case to resort to war until three months after the award by the arbitrators *or the judicial decision*, or the report by the Council.

2. In any case under this Article, the award of the arbitrators *or the judicial decision* shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

ARTICLE 13

Arbitration or Judicial Settlement

1. The Members of the League agree that, whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration *or judicial settlement*, and which can not be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration *or judicial settlement.*

2. Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which, if established, would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration *or judicial settlement.*

3. *For the consideration of any such dispute, the court to which the case is referred shall be the Permanent Court of International Justice, established in accordance with Article 14, or any tribunal agreed on by the parties to the dispute or stipulated in any convention existing between them.*

4. The Members of the League agree that they will carry out in full good faith any award *or decision* that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to

1. The text as printed came into force as an amendment on September 26, 1924, in accordance with Art. 26.

carry out such an award *or decision*, the Council shall propose what steps should be taken to give effect thereto.

ARTICLE 14

Permanent Court of International Justice

The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

ARTICLE 15

Disputes Not Submitted to Arbitration or Judicial Settlement

1. If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration *or judicial settlement* in accordance with Article 13, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary-General, who will make all necessary arrangements for a full investigation and consideration thereof.

2. For this purpose the parties to the dispute will communicate to the Secretary-General, as promptly as possible, statements of their case, with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

3. The Council shall endeavor to effect a settlement of the dispute and, if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate.

4. If the disute is not thus settled, the Council, either unanimously or by a majority vote, shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

5. Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

6. If a report by the Council is unanimously agreed to by the Members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

7. If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the Representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

8. If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

9. The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute, provided that such request be made within 14 days after the submission of the dispute to the Council.

10. In any case referred to the Assembly, all the provisions of this Article and of Article 12 relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the Representatives of those Members of the League represented on the Council and of a majority of the other Members of the League, exclusive in each case of the Representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the members thereof other than the Representatives of one or more of the parties to the dispute.

ARTICLE 16

Sanctions of Pacific Settlement

1. [1]Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-

1. The Assembly has voted in favor of the following amendments to Art. 16, to replace paragraph one, and the Members are now deciding upon their ratification:

"Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, *which hereby undertake immediately to subject it to the severance of all trade or financial relations and to prohibit all intercourse at least between persons resident within their territories and persons resident within the territory of the covenant-breaking State and, if they deem it expedient, also between their nationals and the nationals of the covenant-breaking State, and to prevent all financial, commercial or personal intercourse at least between persons resident within the territory of that State and persons resident within the territory of any other State, whether a Member of the League or not, and, if they deem it expedient, also between the nationals of that State and the nationals of any other State whether a Member of the League or not.*"

[N. B.—The above amendment was voted by the Fifth Assembly on September 27, 1924, to supersede an amendment voted by the Second Assembly and which was being ratified in the following form: " . . . *which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between persons residing in their territory and persons residing in the territory of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between persons residing in the territory of the covenant-breaking State and persons residing in the territory of any other State, whether a Member of the League or not.*"]

"*It is for the Council to give an opinion whether or not a breach of the Covenant has taken place. In deliberations on this question in the Council, the votes of Members of the League alleged to have resorted to war and of Members against whom such action was directed shall not be counted.*

"*The Council will notify to all Members of the League the date which it recommends for the application of the economic pressure under this Article.*

"*Nevertheless, the Council may, in the case of particular Members, postpone the coming into force of any of these measures for a specified period where it is satisfied that such a postponement will facilitate the attainment of the object of the measures referred to in the preceding paragraph, or that it is necessary in order to minimize the loss and inconvenience which will be caused to such Members.*"

breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

2. It shall be the duty of the Council in such case[1] to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

3. The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

4. Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

ARTICLE 17

Disputes Involving Non-members

1. In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League, the State or States not Members of the League shall be invited to accept the obligations of Membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles 12 to 16, inclusive, shall be applied with such modifications as may be deemed necessary by the Council.

2. Upon such invitation being given, the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

3. If a State so invited shall refuse to accept the obligations of Membership in the League for the purposes of such dispute, and shall resort to war against a Member of the League, the provisions of Article 16 shall be applicable as against the State taking such action.

4. If both parties to the dispute, when so invited, refuse to accept the obligations of Membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

1. The Assembly on September 21, 1925, adopted a resolution providing that the words "in such case" shall be deleted. The amendment has been submitted to Member States for ratification.

ARTICLE 18

Registration and Publication of Treaties

Every treaty or international engagement entered into hereafter by any Member of the League shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered.

ARTICLE 19

Review of Treaties

The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable, and the consideration of international conditions whose continuance might endanger the peace of the world.

ARTICLE 20

Abrogation of Inconsistent Obligations

1. The Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

2. In case any Member of the League shall, before becoming a Member of the League, have undertaken any obligation inconsistent with the terms of this Covenant, it shall be the duty of such Member to take immediate steps to procure its release from such obligations.

ARTICLE 21

Engagements that Remain Valid

Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe doctrine, for securing the maintenance of peace.

ARTICLE 22

Mandatory System

1. To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performances of this trust should be embodied in this Covenant.

2. The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who, by reason of their resources, their experience or their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

3. The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

4. Certain communities formerly belonging to the Turkish Empire have reached a stage of develop-

ment where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

5. Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defense of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

6. There are territories, such as Southwest Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

7. In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

8. The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

9. A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories, and to advise the Council on all matters relating to the observance of the mandates.

ARTICLE 23

Social and Other Activities

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League:

(*a*) will endeavor to secure and maintain fair and humane conditions of labor for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations;

(*b*) undertake to secure just treatment of the native inhabitants of territories under their control;

(*c*) will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children and the traffic in opium and other dangerous drugs;

(*d*) will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest;

(*e*) will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connection, the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind;

(*f*) will endeavor to take steps in matters of international concern for the prevention and control of disease.

ARTICLE 24

International Bureaus

1. There shall be placed under the direction of the League all international bureaus already established by general treaties, if the parties to such treaties consent. All such international bureaus and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League.

2. In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaus or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

3. The Council may include as part of the expenses of the Secretariat the expenses of any bureau or commission which is placed under the direction of the League.

ARTICLE 25

Promotion of Red Cross and Health

The Members of the League agree to encourage and promote the establishment and co-operation of duly authorized voluntary national Red Cross organizations having as purposes the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.

ARTICLE 26[1]

Amendments

1. Amendments to this Covenant will take effect when ratified by the Members of the League whose Representatives compose the Council and by a majority of the Members of the League whose Representatives compose the Assembly.

2. No such amendment shall bind any Member of the League which signifies its dissent therefrom, but in that case it shall cease to be a Member of the League.

1. The Assembly voted in favor of the following amendments to replace Art. 26, in 1921, and the Members are now deciding upon its ratification:

"Amendments to the present Covenant the text of which shall have been voted by the Assembly on a three-fourths majority, in which there shall be included the votes of all the Members of the Council represented at the meeting, will take effect when ratified by the Members of the League whose Representatives composed the Council when the vote was taken and by the majority of those whose Representatives form the Assembly.

"If the required number of ratifications shall not have been obtained within twenty-two months after the vote of the Assembly, the proposed amendment shall remain without effect.

"The Secretary-General shall inform the Members of the taking effect of an amendment.

"Any Member of the League which has not at that time ratified the amendment is free to notify the Secretary-General within a year of its refusal to accept it, but in that case it shall cease to be a Member of the League."

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The Japanese Elections

THE coming Parliamentary elections to be held in Japan on February 20 are attracting the attention of the outside world, not because any very radical changes in the new Japanese Diet are hoped for, but because this national election is the first that has been held in Japan since the granting of universal manhood suffrage. In 1925 the Imperial Diet, after a prolonged and heated session, passed a bill granting the right of suffrage to every man twenty-five years of age or older. Seven million new voters were thereby added to the Japanese electorate, swelling the total to twelve and one-half million, who this month are to elect new members for the House of Representatives.

The party platforms, party differences and "purity" rules, to prevent adoption of electioneering methods so familiar in America, are outlined in the following brief survey.

ON January 21, Premier Baron Tanaka, leader of the Seiyukai party, dissolved the Japanese House of Representatives in order to forestall a discussion on the non-confidence resolution presented by the Minseito (until recently Kenseikai), the Opposition party. Ever since the Tanaka Cabinet was organized last April both parties have been expecting the dissolution of the House,—the government party because a dissolution would enable it to go before the voters without its alleged failures and shortcomings being aired by its antagonists in the House; the Opposition party, because a dissolution would give it a plausible excuse to declare that the Cabinet was afraid to face an open debate on the floor of the legislature.

Reports in the American press have generally stated that the Japanese "Diet" is dissolved. This is not altogether correct. The Diet is composed of two Houses,—the House of Peers and the House of Representatives. The "Upper House" is never dissolved, it is only "prorogued" when the "Lower House" is dissolved. The House of Peers has 394 members, of whom 16 are Princes of the Blood, 13 Princes, 43 Marquises, 20 Counts,

73 Viscounts, 72 Barons, 120 imperial nominees from among meritorious publicists, scholars, or officials, 4 members elected from among the members of the Imperial Academy, and 45 representatives elected by the highest tax-payers. The "Lower House" consists of 464 Representatives elected by the people.

Nominally, it is the Emperor who orders dissolution of the House. Actually, it is the Prime Minister and his Cabinet who, whenever they deem a dissolution advisable, invoke an imperial order for that purpose. The Emperor never dissolves the House without their request. In the present instance, Premier Baron Tanaka had an imperial order for dissolution already prepared before he went to the House to deliver his speech on the Government's general policy, for he had anticipated the Opposition's motion for a resolution of non-confidence. Such is the usual practice.

THE CHANGE IN CABINET IN 1927

When last April the Kenseikai (now Minseito) Cabinet fell before the onslaughts of Baron Tanaka's Seiyukai party, the problems at issue were, primarily, financial readjustment at home, and secondarily, the readjustment of policy towards China. Financially, Japan was in an unfortunate condition, owing largely to the protracted postwar depression and the great earthquake disaster of September, 1923. In March, 1927, the long expected panic came, with many bank failures and the collapse of the Suzuki Company, a great trading house whose liabilities totaled $250,000,000. In regard to China, the Kenseikai Cabinet's "friendliness policy" had been put to a severe test by the growing anti-foreign agitation throughout that country, and especially the outrages committed by a Nationalist, or Communist, Chinese general against the British, American and Japanese consulates and residents at Nanking.

When Baron Tanaka's Seiyukai party succeeded the Kenseikai Cabinet, it was said that the new ministry would adopt a "positive policy" both at home and in China, as against what is called the "negative policy" of its predecessor. As soon as Tanaka organized his cabinet on April 18, he invoked an imperial edict declaring a three weeks' moratorium, and also adopted a Special Credit Law guaranteeing the Bank of Japan to the extent of 500,000,000 yen for loans it might make to various banks needing help. At the same time Baron Tanaka announced that he would take proper steps to protect Japanese lives and property as well as Japan's treaty rights in China.

ISSUES BETWEEN THE GOVERNMENT AND OPPOSITION

Today, as a year ago, the same questions—finances and the Chinese situation—are the main issues between the major parties. The resolution of non-confidence, whose presentation by the Opposition caused the dissolution of the "Lower House," was based largely upon the Cabinet's alleged failures in those two matters. The Opposition asserts that the Cabinet's financial policy has not restored order and stability as speedily as it should have, and that its careless and unnecessary advertising of the "positive policy" in regard to China has created uneasiness and distrust abroad.

Besides these major problems there are minor questions. The Government party promises to transfer the land tax revenue from the national treasury to the local treasuries. The Opposition counters this with a promise to relieve the local governments of the financial burden of compulsory education by defraying the necessary expenditures from the national treasury. In addition the Seiyukai (Government party), whose strength lies in rural constituencies, promises state aid for farm financing, encouragement of fisheries and forestry, railroad and harbor improvement, stabilization of the silk market, and so on. On the other hand, the Minseito (Opposition), influential in the larger cities, advocates various measures of a nature to appeal to city voters.

The parliamentary elections will be held on February 20. This will be the first election of the kind under the universal manhood suffrage law adopted in 1925. It is true that the same law was applied to the elections held last October, but those were local elections. Naturally much greater importance is attached to the coming elections.

At the October elections (which affected 40 of Japan's 47 prefectures) there were 9,153,000 registered voters, of whom 6,835,000, or about 73 per cent, cast their ballots. At the coming national elections there will be 12,500,000 voters.

Japan's election law has passed through several stages of development. From 1890 to 1899 the franchise was limited to those over 25 years of age and paying a direct national tax of 15 yen or more. Under this law the number of voters was 500,000.

In 1900 the property qualification was lowered to a direct national tax of 10 yen, thus increasing the number of voters to 1,500,000. In 1920 the tax qualification was again lowered to 3 yen, which increased the voting population to 2,800,000.

Then came the universal manhood suffrage law of 1925, which enfranchised all male citizens above 25 years of age without property qualification. This increased the number of voters to 12,500,000, as reported by the Department of Home Affairs in January, 1928.

JAPANESE PROLETARIAN PARTIES

The removal of property qualification has injected into Japanese politics new elements in the form of four so-called proletarian or non-propertied parties. These are the Nippon Nomin-To (Japanese Farmers' Party), the Nippon Ronto-To (Japan Labor-Farmer Party), the Rodo Nomin-To (Labor-Farmer Party), and the Shakai Minshiu-To (Social People's Party) so-called to avoid the unpopular name of Shakai Minshu-To, which is the recognized Japanese translation for Social Democratic Party.

As is apparent from their names, these new parties have much in common, but for some reason or other they are unable to pool their resources and their strength for the attainment of their common end. Broadly speaking, the Labor-Farmer Party is said to be the most radical of the four parties. Its leaders are said to be believers in Communism. On the other hand, the Social People's Party and the Japan Farmers' Party represent the "right" wing of the Japanese proletariat. Between the right and left the middle course is followed by the Japan Labor-Farmer Party. Of the four, the Social People's Party is perhaps most influential. Its leaders are Professor Isowo Abe, of Waseda University, and Mr. Bunji Suzuki, President of the Japanese Federation of Labor.

What actual strength these new parties will develop at the coming elections it is impossible to say. Already they have put forth about sixty candidates, but few expect to see more than ten or fifteen elected. The new parties are untrained in the strategy of politics, they have but scant financial resources, and they seem to be prevented by jealousy or petty disagreements from cooperating with each other. At the local elections last October their candidates polled 283,000 votes (only a little over four per cent of the total number of votes) and only 28 were elected out of a total of 1,485 members of prefectural assemblies.

Besides the two major parties, the Seiyukai and the Minseito, and the four proletarian parties, there are in the field the Independents, who are somewhat more liberal than the established parties; the Kakushin-To (Reform Party) whose apparently high motive is to inject new ideals into Japanese politics; and the Business Men's Party, whose membership is very small.

At the October local elections the votes polled and the members elected by the various parties were as follows:

Party	*Votes polled*	*Members elected*
Seiyukai (Government)	2,838,000	714
Minseito (Opposition)	2,385,568	569
Independents	707,000	162
Four proletarian parties	283,000	28
Reform Party	44,521	7
Business Men's Party	17,000	5

The above figures are the estimate of the *Osaka Mainichi*, one of Japan's leading newspapers. The official report credits the Seiyukai with a much heavier vote and a much larger number of members elected. But if the above figures are accepted as an indication of the possible outcome of the coming elections, it is quite likely that the government party will win by a rather small margin.

ANTI-CORRUPTION ELECTION PROVISIONS

One of the most interesting phenomena at the coming elections will be the enforcement

of the meticulous anti-corruption provisions which are an important, and perhaps a unique, feature of Japan's manhood suffrage law. If these provisions were impartially and fairly applied to the campaign activities of all the parties in the field, they would probably go a long way towards securing "clean" elections. But the party in power always enjoys a certain advantage in that it has behind it government officials whose natural sympathies can be relied upon to manifest themselves in moral, and in many instances material, support for their own candidates. It is a well-known fact that Japanese elections usually result in the victory of the party in power. Naturally, an election seldom brings about an immediate cabinet change. It is rather "accumulated" criticism, on the part of the public, the press and the Opposition parties in the Diet, which brings about a cabinet resignation.

The anti-corruption provisions of the suffrage law are so numerous, detailed, and involved that it is not easy to understand them clearly. But the more important features may be summarized as follows:

1. A candidate is required to make a deposit of $1,000 with the election authorities to prove his good faith. If votes polled for him do not reach a certain number the deposit is not returned to the candidate. The purpose of this is to reduce the number of irresponsible candidates whose only object is to divide the vote and thus bring about the failure of the promising candidate of the opposing party. In Japan, where there is no caucus system such as that in the United States, any one can announce his candidacy for the sole purpose of embarrassing the opposing candidate.

2. A candidate shall not establish more than seven offices nor shall he employ more than fifty paid workers for electioneering purposes.

3. The campaign fund of a candidate shall not exceed the figure obtained by dividing the total number of registered voters in a given district by the number of seats or representatives allocated to that district, and by multiplying the quotient by forty sen, or about twenty cents. The average for the entire country is estimated at about $6,000 per candidate.

4. House-to-house canvass and telephone solicitation for votes are prohibited.

5. A candidate shall not entertain a voter at dinner or the theatre. Nor shall he offer a voter anything which will confer upon the latter any material benefit. Nor is he permitted to hire automobiles or carriages on the election day for the convenience of the voters.

6. In advertising his candidacy in newspapers or posters a candidate shall not make false or exaggerated statements as to his profession, achievements, or career. As a matter of fact, there will be little political advertising in the press, because the campaign funds of candidates are too limited to permit of extensive use of this costly medium of advertising.

7. A candidate shall not offer any material compensation to those who make campaign speeches for him, except those who are employed by him specifically for his campaign work, not exceeding fifty in number. Without this provision a candidate may find excuse to bribe voters in the name of compensation for nominal speech-making service rendered in his interest. It is unlawful even to entertain such unpaid speakers at a dinner which might be regarded as luxurious or extravagant.

There are many more provisions of this nature, but the above will suffice to show that electioneering in Japan is subjected to a most rigorous surveillance by the authorities. They offer the government party a constant temptation to invoke police power to interfere with the legitimate activities of the Opposition party. How the Tanaka Cabinet will enforce these provisions is a most interesting question at this time.